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Attorneys for Plaintiff

JOHN MARCOVICH

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JOHN MARCOVICH,

Plaintiff,

v.

VITAMIN SHOPPE INDUSTRIES, INC.;
NUTRITION NOW, INC.; and DOES 1 TO
100,

Defendants.

**STIPULATION AND [PROPOSED] ORDER
TO CONTINUE STATUS CONFERENCE
OF DECEMBER 11, 2008**

Date: December 11, 2008

Time: 1:30

Hon. Judge Wayne D. Brazil

Action Filed: January 31, 2008

Trial Date: None Set

IT IS HEREBY STIPULATED and requested by the parties to this action, by and through their attorneys of record, that the status conference, currently set for December 11, 2008, be continued.

The parties agree that further discovery is necessary prior to appearing for the court ordered mediation, which was originally set for December 10, 2008, but which will not take place on that date.

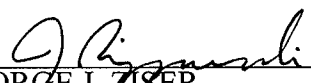
Upon completion of this discovery and the court appointed mediation (if necessary) the parties will be in a better position to advise the court of the status of this litigation, necessary scheduling orders,

etc. At present, however, the parties agree that a status conference is not necessary, and would be a waste of judicial resources. The parties have been in contact with the court appointed mediator and have agreed to reschedule the mediation for a later date, in order to allow the parties time to conduct discovery and potentially resolve this matter informally.

The parties stipulate and request that the status conference be continued for approximately 90 days, to **March 12, 2009**, or to a date as soon thereafter which is permissible to the Court.

DATED: December 8, 2008

LEWIS BRISBOIS BISGAARD & SMITH LLP

By: 
 GEORGE J. ZISER
 JONATHAN RIZZARDI
 Attorneys for Defendants
 VITAMIN SHOPPE INDUSTRIES, INC.
 and NUTRITION NOW, INC.

DATED: December 8, 2008

THE LAW OFFICES OF MICHAEL T. MORRISSEY

By: /S/
 MICHAEL T. MORRISSEY
 ROBERT A. MACHADO
 Attorneys for Plaintiff
 JOHN MARCOVICH

~~PROPOSED~~ ORDER

IT IS HEREBY ORDERED that this Stipulation is approved. The December 11, 2008 status conference is hereby continued. The status conference is now set for March 12, 2009, at 4:00 p.m. The parties will promptly prepare and file dismissal papers and notify the Court in the event this matter is settled prior to the continued status conference date noted above.

Dated: December 9, 2008


Hon. Judge Wayne D. Brazil

LEWIS BRISBOIS BISGAARD & SMITH LLP
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Marcovich v. Vitamin Shoppe Industries, Inc., et al.
Northern District of California Case No. CV 08-01735 WDB

FEDERAL COURT PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF SAN FRANCISCO

At the time of service, I was over 18 years of age and not a party to the action. My business address is One Sansome Street, Suite 1400, San Francisco, California 94104. I am employed in the office of a member of the bar of this Court at whose direction the service was made.

On December 9, 2008, I served the following document:

**STIPULATION AND [PROPOSED] ORDER TO CONTINUE STATUS CONFERENCE
OF DECEMBER 11, 2008**

I served the document on the following person at the following address:

Michael T. Morrissey, Esq.
Robert A. Machado, Esq.
Law Offices of Michael T. Morrissey
1110 North First Street
San Jose, CA 95112
T: (408) 280-7011; F: (408) 741-1671
E: morrisseylaw02@aol.com
Counsel for Plaintiff
JOHN MARCOVICH

The documents were served by the following means:

☒ (BY COURT'S CM/ECF SYSTEM) Pursuant to Local Rule, I electronically filed the documents with the Clerk of the Court using the CM/ECF system, which sent notification of that filing to the persons listed above.

☐ (BY U.S. MAIL) I enclosed the documents in a sealed envelope or package addressed to the persons at the addresses listed above and (specify one):

☐ Placed the envelope or package for collection and mailing, following our ordinary business practices. I am readily familiar with the firm's practice for collection and processing correspondence for mailing. Under that practice, on the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the U.S. Postal Service, in a sealed envelope of package with the postage fully prepaid.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on December 9, 2008, at San Francisco, California.


Sheila N. McNeill